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DECLARATION
OF COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR VISTA NORTH SECTION TWO-A

Recitals

This is the Declaration of Covenants, Conditions, and Restrictions for VISTA NORTH SECTION TWO-A, a subdivision in Austin, Travis County, Texas recorded in Volume 85, Pages 98D-99A, Plat Records of Travis County, Texas, resubdivided in part in Volume 95, Page 307, Plat Records of Travis County, Texas. The property subject to this Declaration is described in Exhibit A. The property consists of eight single family lots. The Declarant, VALBURN VISTA, LTD. are the owners of the property.

All terms of this Declaration shall be deemed to run with the land and shall be binding upon any person acquiring or owning an interest in the real property and improvements, their grantees, successors, and assigns.

ARTICLE I. DEFINITIONS

1.1 Definitions. The following words and phrases in this Declaration have these meanings:

a. "Architectural Control Committee" means the committee created pursuant to these Restrictions to review and approve plans for the construction of improvements upon the Property and enforce these Restrictions if it so chooses.

b. "Architectural Control Committee Rules" means the rules and regulations, if any, adopted and amended by the Architectural Control Committee.

c. "Assessment" or "Assessments" means assessment(s) levied by the Architectural Control Committee under this Declaration.

d. "Declarant" means Valburn Vista, Ltd., or his heirs, successors or assigns, as the developer of the Property.

e. "Declarant" means this instrument as it may be amended from time to time.

f. "Improvement" means every structure and all appurtenances of every kind, including but not limited to, buildings, outbuildings, storage buildings, greenhouses, patios, tennis or other sports courts, poles, signs, exterior air conditioning, water softeners, fixtures or equipment, and poles, pumps, wells, tanks, reservoirs, pipes, lines, meters, antennas, towers, sprinkler irrigation systems, satellite dishes, barbecue grills and picnic facilities, and other facilities used in connection with water, sewer, gas, electric, telephone, regular or cable television or other utilities, driveways, alleyways, walkways, entryways and alteration or replacement of any exterior surface.

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TRAVIS COUNTY, TEXAS

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g. "Landscaping" means any trees, shrubs, grass or other vegetative cover, planters, borders, or other such items used to enhance the appearance of the Property or any of the Lots.

h. "Lot" means any one of the eight lots comprising the Property.

i. "Mortgage" or "Mortgages" means any mortgage(s) or deed(s) of trust covering any Lot.

j. "Mortgagee" or "Mortgagees" shall mean the holder or holders of any Mortgage.

k. "Owner" or "Owners" means the person(s), entity or entities, holding a fee simple interest in any Lot, but shall not include any Mortgage.

l. "Person" or "Persons" means any individual(s), entity or entities having the legal right to hold title to real property.

m. "Plans and Specifications" means documents designated to guide or control the construction of any Improvement, including but not limited to, those indicating location, size, shape, configuration, materials, site plans, excavation and grading plans, foundations plans, drainage plans, landscaping and fencing plans, elevation drawings, floor plans, specifications on all building products and construction techniques, samples of exterior colors, plans for utility services and all other documentation or information relevant to such Improvement.

n. "Plats" means the recorded subdivision plats of all or any portion of the Property as described in Exhibit A.

o. "Property" means the Property subject to this Declaration and described in Exhibit A.

p. "Residence" means any single family residence on a Lot.

ARTICLE II. GENERAL RESTRICTIONS AND OTHER RIGHTS AND OBLIGATIONS OF OWNERS

The following restrictions shall apply to each Lot:

2.1 Use of Lots. Lots shall be improved and used solely for single family residential use, inclusive of a garage, fencing and such other Improvements as are necessary or customarily incident to residential use. The restrictions shall not, however, be construed to prohibit an Owner from:

- (1) maintaining his personal, professional library;
- (2) keeping his personal business or professional records or accounts;
- (3) handling his personal business or professional telephone calls or correspondence, which uses are expressly declared customarily incidental to the principal residential use and not in violation of the restrictions; or
- (4) renting or leasing his Residence in strict compliance with the Declaration.

2.2 Rentals. Nothing in this Declaration shall prevent the rental of any Residence by the Owner for residential purposes; provided that all rentals must be for terms of at least three (3) months. If rented, residences must be rented in their entirety to a tenant.

2.3 Hazardous activities. No activities shall be conducted on any Lot and no Improvements shall be constructed or allowed to remain on any Lot which are or might be unsafe or hazardous to any person or property. Without limiting the foregoing, no firearms or fireworks shall be discharged upon the Property, no open fires shall be lighted or permitted except within safe and well-designed fireplaces approved by the Architectural Control Committee, or in contained barbecue grills while attended and in use for cooking purposes.

2.4 Nuisances and Safety. No unsafe, noxious, offensive, or illegal activity or odor is permitted on any Lot. No activity shall be conducted on a Lot which might reasonably be considered as annoying to neighbors of ordinary sensibilities, or might be reasonably calculated to reduce the desirability of the Property for quality of living. No exterior loudspeakers or flashing lights shall be allowed.

2.5 Lighting. All exterior lighting on any Lot will be shielded and oriented downward so that the cone of light falls on the Lot, or will be a frosted glass lighting type.

2.6 Criminal activity. While on the Property no person may violate any criminal laws, health codes or other applicable laws.

2.7 Mining and drilling. No portion of the Property shall be used for the purpose of mining, quarrying, drilling, boring or exploring for or removing oil, gas or other hydrocarbons, minerals of any kind, rocks, stones, sand, gravel, aggregate or earth.

2.8 Noise. No exterior speakers (other than stereo speakers), horns, whistles, bells or other sound devices (other than security devices used exclusively for security purposes) shall be located, used or placed on any Lot. No noise or other nuisance shall be permitted to exist or operate upon any Lot so as to be offensive or detrimental to any other portion of the Property or to its occupants. Yelling or loud talking outside is prohibited.

2.9 Animals. No animals are allowed on the Property except that Owners or their tenants may have: (i) not more than two dogs or two cats; or (ii) a combination of not more than two dogs and cats. No animal shall be allowed to make an unreasonable amount of noise, or to become a nuisance, and no domestic animals will be allowed on the Property other than its Owner's Lot unless confined to a leash. No animal may be boarded for hire or remuneration on the Property, and no kennels or breeding operation will be allowed. No animal shall be allowed to run at large. Animals which are permitted shall be kept on a leash or within an enclosed area which must be clean, sanitary, and reasonably free of refuse, insects, and waste at all times. Such enclosed area shall be constructed to adequately contain such animals. Leashes may not be tied to objects visible from the street and must be held by a person who can control the animal at all times. An Owner has the responsibility to immediately clean up after his pet if his pet defecates in the street or on another's Lot.

2.10 Liability for animals. The Residence Owner and the pet owner are both jointly liable to all other Owners and their respective families, guests, tenants and invitees for injury and all damage caused by any animals brought or kept on a Lot by an Owner or members of his family, his tenants or his guests. Owners agree, for themselves, and their respective families, guests, tenants and invitees, that no other Owner shall have liability for any injury or damage caused by an animal brought or kept upon the Property by an Owner or members of his family, his tenants or his guests.

2.11 Trash, rubbish, and debris. No trash, rubbish, or debris of any kind shall be placed or permitted to accumulate upon a Lot, and no odors shall be permitted to arise therefrom so as to render the Property or any portion thereof unsanitary, unsightly, offensive or detrimental to any other Residence or to its occupants. Refuse, garbage and trash shall be kept at all times in covered containers, and such containers shall be kept within enclosed structures or appropriately screened from view.

2.12 Exterior maintenance, landscaping maintenance, and tree cutting. No Owner shall injure, remove or destroy any tree which has reached a height in excess of ten feet without the approval of the Architectural Control Committee. Such approval shall be reasonably granted to an Owner if the Owner is building a house. Otherwise, each Owner shall keep all Landscaping on such Owner's Lot cultivated, pruned, free of trash, and other unsightly material. All Improvements shall at all times be kept in good condition and repair and adequately painted or otherwise maintained at the sole expense of the Owner of such Improvement. Declarant shall not be required to receive approval of the Architectural Control Committee to remove or install trees or Landscaping on Lots owned by Declarant.

Each Owner shall maintain the Landscaping and any sprinkler system on his Lot and the exterior surfaces of any building or other improvements on his Lot in a reasonably prudent manner. Mature trees and shrubs adjacent to sidewalks and driveways shall be trimmed to avoid protruding limbs for the bottom seven feet of the tree or shrub. Owners shall mow all grass surfaces at reasonable regular intervals.

2.13 Antenna. No exterior radio or television antenna or aerial or satellite dish receiver or other devices designed to receive telecommunication or electromagnetic radiation signals shall be erected or maintained on any portion of a Lot without the prior written approval of the Architectural Control Committee. The Architectural Control Committee may approve antennas or satellite dishes that are hidden from view from other Residences.

2.14 Signs. No sign shall be visible to the public view on any Residence without the prior written approval of the Architectural Control Committee, except (i) signs erected by Declarant as a part of Declarant's overall marketing plan for the Property; and (ii) one sign on any Lot of not more than five square feet advertising the Residence for sale or rent or for warning of a security service, system, or animal.

2.15 Tanks. Swimming pool filter tanks shall be the only tanks permitted on any Lot. The Architectural Control Committee shall have the right to approve the location of any such tank used or proposed in connection with a single family residence structure. All such tanks

shall be screened so as not to be visible from any other Residence or the street. Fuel tanks are prohibited. Portable fuel containers must be metal and capped at all times.

2.16 Temporary structures. No tent, shack or other temporary building, improvements or structure shall be placed upon a Lot without the prior written approval of the Architectural Control Committee; provided, however, that temporary structures necessary for storage of tools and equipment, and for office space for architects, builders and foremen during actual construction may be maintained with the prior approval of the Architectural Control Committee or prior written approval of the Declarant. Any such approvals by the Architectural Control Committee or the Declarant shall include the nature, size, duration and location of such structure.

2.17 Unightly articles; vehicles. No unsightly article shall be permitted to remain on any Lot so as to be visible from adjoining property or from public or private thoroughfares. Without limiting the foregoing, trailers, graders, trucks other than pickups, boats, tractors, campers, wagons, buses, motorcycles, motor scooters and garden maintenance equipment shall be kept at all times except when in actual use in enclosed structures or screened from view, and no repair or maintenance work shall be done on any of the foregoing, or on any vehicle (other than minor emergency repairs), except in enclosed garages or other structures. Exceptions to the foregoing may be granted by the Architectural Control Committee.

Each Residence shall have sufficient garage space, as approved by the Architectural Control Committee, to house at least two automobiles at all times. Except when a vehicle is in actual use, Owners may not park vehicles, other than automobiles, vans, and pickups, in the street. Additionally, Owners shall not keep, park, or store automobiles, vans, or pickups, in the street for more than 72 consecutive hours. However, if the automobile, van or pickup is owned or operated by a bona fide guest of the owner or occupant, it may be parked in the street for up to 5 days. Moving or reparking a vehicle will not restart the measurement of allowable time for a vehicle to be parked. The Architectural Control Committee may make temporary exceptions to the parking rules if good cause is shown to the Committee.

The Committee may tow or remove any vehicle being stored or parked in violation of this restriction, and may recover the expense from the Owner of the Lot where the vehicle is located on or parked adjacent to. No vehicle may have commercial signage or commercial lettering on it visible from the street or another Residence. All vehicles must have current licenses and inspections stickers.

2.18 Mobile homes, travel trailers and recreational vehicles. No mobile homes shall be used on the Property as a residence, either temporary or permanent, at any time; and no mobile homes, motor homes, travel trailers, or recreational vehicles shall be parked on or near any Lot so as to be visible from any residence or from public or private thoroughfares at any time.

2.19 Towing illegally parked vehicles. Vehicles parked in violation of the Declaration may be removed and stored without permission of the vehicle's owner or operator. Notice and removal shall be in accordance with statutory requirements. An Owner is liable for all costs of towing illegally parked vehicles of the Owner, his family, guests or tenants.

2.20 Service areas. Service areas, storage areas, compost piles and facilities for hanging, drying or airing clothing or household fabrics shall be appropriately screened from view, and no lumber, grass, plant waste, shrub or tree clippings, metals, bulk materials or scrap, refuse or trash shall be kept, stored or allowed to accumulate on any portion of the Property except within enclosed structures or appropriately screened from view.

2.21 Window coverings. No foil or other objectionable material shall be placed in or next to any window or sliding glass door. Burglar bars that may be seen from the outside are prohibited.

2.22 Sidewalks. Sidewalks shall be installed at the expense of each Lot Owner as may be required by the City of Austin.

2.23 Landscaping to be installed by Owners. Except as otherwise provided in this Declaration, Landscaping installed by Owners shall be subject to approval of the Architectural Control Committee.

2.24 Compliance with the restrictions and obligations. Each Owner shall comply strictly with the provisions of this Declaration as the same may be amended from time to time. Failure to comply shall constitute a violation of this Declaration, and the Architectural Control Committee and any Lot Owner shall have all remedies set forth in Article III.

ARTICLE III. CONSTRUCTION RESTRICTIONS AND ARCHITECTURAL CONTROL COMMITTEE

All of the Property shall be subject to the following limitations and restrictions:

3.1 Approval for construction. No Improvements shall be constructed upon any Lot without the prior written approval of the Architectural Control Committee.

3.2 Building materials; dwelling size. All buildings upon the Lots shall be of recognized standard construction quality and shall be constructed of at least ninety percent masonry or other material specifically approved in writing by the Architectural Control Committee. All dwellings shall contain not less than 3,000 square feet of finished heated and airconditioned living space, exclusive of porches (open and covered), decks, garages and carports. Masonry or other material specifically approved in writing by the Architectural Control Committee shall be used on all buildings upon the Lots on the front, sides, any area facing a street, and areas visible from other Lots.

3.3 Construction in place. All buildings constructed on any Lot shall comply with the restrictions of this Declaration. The use of prefabricated materials shall be allowed only with the prior approval of the Architectural Control Committee.

3.4 Alteration or removal of improvements. Any construction, other than normal maintenance, which in any way alters the exterior appearance of any Improvement, or the removal of any Improvement shall be performed only with the prior written approval of the Architectural Control Committee.

3.5 Roofing materials. All roofing materials must be dimensional and approved in advance by the Architectural Control Committee and must be of sufficient quality to provide for at least thirty years' duration.

3.6 Window materials. Windows shall be made of wood, vinyl or material approved by the Architectural Control Committee. Aluminum windows are prohibited.

3.7 Sprinkler systems. The front and side yard of each residence shall contain an underground sprinkler system of a design adequate to water the entire front and side yards.

3.8 Landscaping requirements. The cost of all landscaping improvements shall be at the expense of the Owner. All landscaping design and material must be approved in advance by the Architectural Control Committee. The Architectural Control Committee at the expense of all Lot Owners shall maintain any landscaping which has been installed by the Declarant at the entryway to the Property.

3.9 Setback requirements. No structure shall be located or erected nearer to any Lot boundary line than is indicated by the building lines depicted on the Subdivision plats. In addition, no structure shall be located or erected nearer to any side Lot boundary line than five feet. No fence, wall, hedge or any other Improvement shall be erected or placed forward of any such front setback line (near the street) without the prior consent of the Architectural Control Committee.

3.10 Building height. No improvement greater than thirty-six feet (36') in height may be constructed on any Lot without the prior written approval of the Architectural Control Committee. For purposes of this paragraph, height shall be measured from the highest point of the foundation to the highest point of the ridge line of the roof of the proposed Improvement.

3.11 Garages and driveways. Each residence shall have constructed as an appurtenance to such residence a garage of at least two-car capacity. A detached garage will be permitted provided it is connected by a breezeway or covered walk to the Residence and is constructed of materials similar to and compatible with the Residence on which the garage is situated. All garage doors shall be closed at all times except as may be necessary for entry and exit of vehicles and persons. The Architectural Control Committee shall have the right to impose limitations on driveway design, including materials, aprons, location, and point of contact with the street. The driveways to Lots 1, 7, and 8 shall be restricted to Valburn Drive.

3.12 Community mail boxes. If required by the United States Postal Service, all mail service will be handled through community mail boxes. No individual mail boxes will be allowed until and unless the U.S. Postal Service provides door-to-door service, and in such event all individual mail boxes shall be subject to review and approval by the Architectural Control Committee.

3.13 Fences, walls, hedges and entryway. Declarant shall have the option, but shall not be required, to construct fences along the perimeter of the Property or an entryway into the

Property. Perimeter fences, landscaping and any entryway constructed by Declarant shall be maintained by the Architectural Control Committee at the expense of all Lot Owners.

No fence, wall or hedge shall be constructed on any Lot without the prior consent of the Architectural Control Committee. The Committee may, in its discretion, prohibit the construction of any proposed fence, wall or hedge, specify the location or height of the proposed fence, wall or hedge, specify the materials or type of which any proposed fence or wall or hedge must be constructed or planted, respectively, or require that any proposed fence or wall be screened by vegetation or otherwise so as not to be visible from other portions of the Property. All fencing where it faces a street or adjoins a view shall be wrought iron design approved by the Architectural Control Committee. Solid privacy fences may be used between Lots 1, 2, 3 and 4 with Lots 6, 7 and 8 using wrought iron, all of which shall be subject to the approval of the Architectural Control Committee.

3.14 Underground utility lines. No utility lines, including but not limited to, wires or other devices for the communication or transmission of the telephone or electrical current or power, cable television or other type of line or wire shall be erected, placed or maintained anywhere in or upon any Lot unless the same shall be contained in conduit or cables installed and maintained underground or concealed in, under or on buildings or other Improvements as approved in writing by the Architectural Control Committee; provided, however, that such provision shall not be deemed to forbid the erection of temporary power or telephone structures incident to the construction of buildings or other Improvements which have been previously approved in writing by the Architectural Control Committee. The installation method, including but not limited to, location, type of installation equipment, trenching method, and other aspects of installation, for both temporary and permanent utilities, shall be subject to review and approval by the Architectural Control Committee.

3.15 Drainage. There shall be no interference with the established drainage patterns over any of the Property, except by Declarant, unless adequate provision is made for property drainage and approved by the Architectural Control Committee.

3.16 Construction activities. This Declaration shall not be construed so as to unreasonably interfere with or prevent normal construction activities during the construction of Improvements by an Owner. Specifically, no such construction activities shall be deemed to constitute a nuisance or a violation of this Declaration by reason of noise, dust, presence of vehicles or construction machinery, posting of signs or similar activities, provided that such construction is pursued to completion with reasonable diligence and conforms to usual construction practices in the area. In no event, however, shall any structure be allowed to remain uncompleted for more than one year after construction has commenced. In addition, during construction of any structure the contractor shall keep adjoining streets and thoroughfares free from debris and shall be required to maintain upon the Lot a dumpster for the purpose of holding all construction debris.

In the event that construction upon any Lot does not conform to the requirements set forth above or otherwise does not conform to usual construction practices in the area as determined by the Architectural Control Committee in its sole good faith judgment, the Architectural Control Committee shall have the authority to seek an injunction to stop such

construction. In addition, if during the course of construction upon any Lot there is excessive accumulation of debris of any kind which would render the Lot or any other portion of the Property unsanitary, unsightly, offensive or detrimental, then the Architectural Control Committee may contract for or cause such debris to be removed and the Owner of the Lot shall be liable for all expenses incurred. In the event of default in the payment of such sums within thirty days after demand has been made, the Owner of the Lot shall be obligated to pay, in addition to the sums demanded, interest on such sums at the highest rate allowed by applicable laws, together with all costs and expenses of collection, including reasonable attorney's fees.

3.17 Membership of Architectural Control Committee. The Architectural Control Committee shall consist of not more than three voting members as initially appointed by Declarant. At such time as Declarant owns less than three Lots, the number and identity of the members shall be determined by majority vote of the Lot Owners with each Lot Owner voting one vote per Lot owned. If more than one entity and/or individual owns a Lot, then they shall determine between or among themselves how to vote for the Lot. Each member of the Committee shall hold office until such time as he has resigned or has been removed by majority vote of the Lot Owners authorized to appoint such Voting Member or his successor has been appointed. In the event of the death or resignation of any Voting Member, the remaining Voting Member or Voting Members shall have full authority to act until a replacement Voting Member or Voting Members have been designated by majority vote of the Owners.

3.18 Action by Architectural Control Committee. Items presented to the Committee shall be decided by a majority vote of the Members and each Member shall be entitled to one vote. The Committee may, by resolution, unanimously adopted in writing, designate one or two of its members or an agent acting on its behalf to take any action or perform any duties for and on behalf of the Architectural Control Committee. In the absence of such designation, the vote of the majority of all of the members of the Architectural Control Committee taken without a meeting shall constitute an act of the Architectural Control Committee. Designated authority shall not exceed one year at a time. The expenses of an agent shall be paid by all Lot Owners.

3.19 Adoption of rules by Architectural Control Committee. The Committee may adopt such procedural and substantive rules, not in conflict with this Declaration, as it may deem necessary or proper for the performance of its duties, including but not limited to, a building code, a fire code, a house code, and other similar codes as it may deem necessary and desirable.

3.20 Review of proposed construction by the Architectural Control Committee. Whenever in this Declaration the approval of the Committee is required, it shall have the right to consider all of the Plans and Specifications for the Improvement or proposal in question and all other facts which, in its sole discretion, are relevant. Except as otherwise specifically provided, prior to the commencement of any construction of any Improvement on the Lot or any portion thereon, the Plans and Specifications shall be submitted to the Committee, and construction may not commence unless and until the Committee has approved such Plans and Specifications in writing. The Committee shall consider and act upon any and all Plans and Specifications submitted for its approval pursuant to this Declaration, and perform such other duties assigned to it by this Declaration, including the inspection of construction in progress to assure it conforms with Plans and Specifications approved by the Committee.

The Committee may review Plans and Specifications submitted for its review and such other information as it deems proper. Until receipt by the Committee of any information or documents deemed necessary by the Committee, it may postpone review of any Plans and Specifications submitted for approval. No Improvement shall be allowed on any Lot which is of such size or architectural design or involves the use of such landscaping, color schemes, exterior finishes, or material or other features as to be incompatible with development within the Property and the surrounding area. The Committee shall have the authority to disapprove any proposed Improvement based upon the restriction set forth in the preceding sentence and the decision of the Committee shall be final and binding so long as it is made in good faith. Any proposed Improvement shall be considered to be approved, however, if it has not been disapproved by the Committee within thirty days after complete Plans and Specifications for such Improvement and all other information required by the Committee has been received by the Committee in writing. The Committee shall not be responsible for reviewing any proposed Improvement, nor shall its approval of any Plans and Specifications be deemed approval thereof, from the standpoint of structural safety, engineering soundness or conformity with building or other codes.

When the Committee approves an Owner's plans and specifications, such approval shall be deemed to be a permanent approval for such plans and specifications, and shall convey to any and all subsequent Owners.

3.21 Variances by Architectural Control Committee. The Committee may grant variances from compliance with any of the provisions of this Declaration, including, but not limited to, restrictions upon height, bulk, size, shape, floor areas, placement of structures, setbacks, colors, materials, or land use when, in the opinion of the Committee, in its sole and absolute discretion, it deems it to be in the best interest of the Property and all Owners. Such variance must be evidenced in writing and must be signed by at least a majority of the voting Members of the Committee. If a variance is granted, no violation of the protective covenants, conditions or restrictions contained in this Declaration shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of such a variance shall not operate to waive any of the terms and provisions of this Declaration for any purpose except as to the particular portion of the Property and in the particular instance covered by the variance.

3.22 No waiver of future approvals by Architectural Control Committee. The approval or consent of the Committee to any Plans or Specifications for any work done or proposed or in connection with any other matter requiring the approval or consent of the Committee shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any Plans and Specifications, or any other matter, subsequently or additionally submitted for approval or consent by the same or a different person.

3.23 Inspection of work in progress by the Architectural Control Committee. The Committee, at its option, may inspect all work in progress to insure compliance with approved Plans and Specifications, and in the event that any construction work is proceeding otherwise than in compliance with the Restrictions and the approved Plans and Specifications, the Committee shall have the authority to issue a directive to the Owner to cease all construction work and to immediately commence such curative action as may be necessary to bring the

construction work into compliance with the Restrictions and/or the approved Plans and Specifications. In the event of a failure of the Owner to comply with such directive, the Architectural Control Committee shall have the right to enforce such directive by seeking injunctive relief.

3.24 Address on plans submitted to Architectural Control Committee. Plans and Specifications shall be submitted to the Committee at the address directed by the Committee from time to time.

3.25 Fees to the Architectural Control Committee. The Committee shall have the right to require a submission of fees for each set of Plans and Specifications submitted for its review to cover its out-of-pocket expenses in the event the Committee has elected to appoint an agent to review the Plans and Specifications.

3.26 Nonliability of Architectural Control Committee members. Neither the Committee nor any member shall be liable to any Owner or to any other person for any loss, damage or injury arising out of their being in any way connected with the performance of the Committee's duties under this Declaration unless due to the willful misconduct or bad faith of the Committee or its members.

3.27 Authority of the Architectural Control Committee. The Committee shall have the power to do and perform any and all acts which may be necessary or proper for or incidental to the exercise of any of the express powers granted to it by this Declaration. Without in any way limiting the generality of the preceding sentences, the Committee shall have the power and authority at all times as follows:

a. *Assessments.* To levy Assessments to provide for expenses as set forth in this Declaration. "Assessments" is defined as that sum which must be levied in the manner and against the property set forth in this Declaration in order to raise the total amount for which the levy in question is being made.

b. *Right of Enforcement.* The Committee shall have the power and authority from time to time, in its own name and on its own behalf, or in the name of and on behalf of any Owner who consents thereto, to commence and maintain actions and suits to enforce by mandatory injunction or otherwise, or to restrain and enjoin any breach or threatened breach of the Restrictions. The Committee is also authorized to settle claims, enforce liens, and take all such action as it may deem necessary or expedient to enforce the Restrictions; provided, however, that the Committee shall never be authorized to expend any Association funds for the purpose of bringing suit against Declarant, his successors or assigns.

c. *Delegation.* The Committee may delegate any duties, powers, and functions to an agent or agents. The Owners hereby release the Committee and its members from liability for any omission or improper exercise by the agent of any such duty, power or function so delegated.

d. *Architectural Control Committee Property Services.* The Committee may pay for watering, landscaping and maintaining the entryway to the Property.

e. *Contracts.* The Committee may enter into contracts for the maintenance of the entryway on such terms and provisions as the Committee shall determine.

3.28 Limited liability and indemnification of Architectural Control Committee members.

a. *Limited Liability.* The members of the Committee shall not be liable to any Owner or any person claiming by or through any Owner for any act or omission of such member in the performance of his duties unless such act or omission is (1) an act or omission not in good faith or that involves intentional misconduct or a knowing violation of law, (2) a transaction from which a member receives an improper benefit, whether or not the benefit resulted from an action taken within the scope of the member's office, or (3) an act or omission for which the liability of the member is expressly provided for by statute. The Lot Owners shall indemnify all such members from all claims, demands, actions and proceedings and any expenses, unless such member has acted in violation of the foregoing.

b. *Indemnity.* All Lot Owners shall promptly indemnify any Architectural Control Committee member for expenses and costs (including attorney's fees) actually and necessarily incurred by him in connection with any claims asserted against the member, by action in court or otherwise, by reason of being or having been a member, except in relation to matters as to which the member is guilty of gross negligence or willful misconduct in respect of the matter in which indemnity is sought.

3.29 Enforcement and remedies. The Committee may utilize any of the rights and remedies set forth below, for the enforcement of all restrictions, conditions, covenants, reservations, liens, rules, charges, and liabilities now and subsequently imposed by the provisions of this Declaration. Failure of the Committee to enforce shall not be deemed a waiver of the right to do so thereafter.

a. *Late charges.* The Committee may adopt late charges, from time to time, for late payment by the Owners of monies owed to the Committee.

b. *Returned check charges.* The Committee may assess returned check charges against an Owner for each returned check, plus late charges, until acceptable payment is received.

c. *Suspension of voting rights.* The voting rights for the election of Committee members of any Owner who is more than 60 days delinquent on any sum to the Association shall be automatically suspended without notice.

d. *Fines and damages.*

(1) The Committee may assess fines against an Owner for violations of restrictions or standards of conduct contained in the Declaration which have been committed by an Owner, an occupant of the Owner's unit, or the Owner or occupant's family, guests, employees, contractors, agents, or invitees. Each day of violation may be considered a separate violation if the violation continues after written notice to the Owner.

(2) The Committee shall have the authority to send notices to alleged violators, informing them of their violations and asking them to comply with the rules and/or informing them of potential or probable fines or damage assessments. The Committee may from time to time adopt a schedule of fines for minor or reoccurring violations, but the Committee may vary any fine depending on the special circumstances of each case.

(3) The procedure for assessment of fines shall be as follows:

(a) the Committee must give the Owner notice of the fine not later than 10 days after the assessment of the fine by the Committee;

(b) the notice of the fine must describe the violation;

(c) the notice of the fine must state the amount of the fine;

(d) the notice of the fine must state that the Owner may, no later than 10 days after the date of the notice, request a hearing before the Committee to contest the fine; and

(e) the notice of the fine must allow the Owner a reasonable time, by a specified date, to cure the violation and avoid the fine unless the Owner was given notice and a reasonable opportunity to cure a similar violation within the preceding 12 months.

(4) Fines are due immediately after the expiration of the 10-day period for requesting a hearing; or if a hearing is requested, such fines shall be due immediately after the Committee's decision at such hearing, assuming that a fine of some amount is confirmed by the Committee at such hearing.

(5) The minimum fine for each violation shall be set by the Committee.

e. *Remedies against tenants.* The Committee shall have the authority to enforce all Restrictions against the Owner's tenants, including collection of fines for violations of the Declaration by the tenants. Fines may be assessed jointly and severally against Owners and their tenants if such tenants violate the Declaration.

f. *Leasing.* The Owners shall (1) timely furnish the Committee with tenants names, telephone numbers, emergency contact persons, and (2) attach a copy of the Declaration to all leases.

g. *Interest.* All past due sums due the Committee by Owners shall bear interest from due date at the highest lawful rate, compounded annually.

h. *Parking limitations.* Vehicle owners shall reimburse the Committee for any costs incurred in towing vehicles illegally parked in violation of the Declaration provided notice is complied with in accordance with applicable statutes regarding illegal parking.

i. *Name and address of new Owners.* An Owner may not sell or convey his Lot without all monies due and owing to the Committee being paid in full; and if such Owner does sell, convey, or transfer his Lot without paying such monies, the new Owner shall be liable for and the selling Owner shall be jointly liable for all monies accruing to the Committee thereafter until such monies are paid in full. If an Owner sells or transfers Ownership of his Lot and fails to notify the Committee of the sale, the selling Owner shall continue to be liable (along with the new Owner) for the assessments accruing after the sale or transfer until such time as the selling or transferring Owner notifies the Committee in writing of the name and address of the new Owner. The selling or transferring Owner shall have the right of indemnity against the new Owner for recovery of any sums paid by the selling or transferring Owner under this subsection.

j. *Change of address.* Owners shall keep the Committee timely informed of their current mailing addresses and any change of addresses.

k. *Lien of the Committee.* The Committee on behalf of the Lot Owners shall have a lien on an Owner's Lot and on any rentals and insurance proceeds relating to the dwelling, to secure payment of all monies owed by the Owner to the Committee. The lien shall automatically attach to the Lot on the due date of the monies owed. The Committee's lien shall be subordinate to the lien of a Mortgage for all sums accruing after the date of recordation of the mortgage. However, the Committee's lien shall not be subordinate for unpaid amounts if (1) such amounts were due and unpaid before the recordation of such mortgage at the time of such recordation. The Committee shall have power of sale and all other powers necessary for nonjudicial foreclosure. The Board shall have the power to appoint an agent or trustee for purposes of foreclosing the lien nonjudicially. All funds realized from any foreclosure sale shall be applied first to the cost and expense of foreclosure, including but not limited to attorney's fees. The Owner shall have the right to judicially enjoin such foreclosure on the same grounds as in any other nonjudicial foreclosure in Texas. Up to the Time of actual foreclosure, the Owner shall have the right to pay all sums due and owing to the Committee (including attorney's fees in connection with the proposed foreclosure), thereby avoiding foreclosure. The Association's lien may not be foreclosed without prior notice to the mortgagee of the Lot being foreclosed upon.

l. *Venue and lawsuit authority.* All obligations of Owners, tenants, and the Committee arising under this Declaration shall be performed in Travis County and venue for any lawsuits shall be in such county. The Committee shall have the right to file and defend a suit (including injunctions) and recover on behalf of the Committee and/or the Owners in any cause of action based on liabilities of Owners and their families, guests, agents, tenants, or third parties.

m. *Attorney's fees.* If delinquent accounts or other violations are turned over to the Committee's attorney, the Owner shall be liable for all attorney's fees incurred by the Committee in collections, filing liens, foreclosing liens, releasing liens, prosecuting lawsuits, and/or otherwise enforcing the Declaration. Unless a prevailing party is seeking exemplary, punitive, or personal injury damages, the prevailing party shall recover attorney's fees from the nonprevailing party in any litigation to enforce the provisions of this Declaration.

n. *Notices to multiple Owners, tenants, mortgagees.* Notice to or from one of multiple Owners or tenants of a Lot shall be deemed as notice to or from all Owners to tenants of that

Lot. If an Owner is more than 60 days delinquent, the Committee may send to the Owner's tenant a copy of any Committee notices or communications with the Owner.

3.30 Assessment line and foreclosure. All sums assessed or charged in the manner provided in this Article, but unpaid, shall, together with all costs and expenses of collection, including reasonable attorney's fees, become a continuing lien and charge on the Lot covered by such assessment or charge, which shall bind such property in the hands of the Owner, and such Owner's heirs, devisees, personal representatives, successors or assigns. The obligation to pay Assessments is part of the purchase price of each Lot when sold to an Owner and an express vendor's lien is hereby retained to secure their payment in each instance and is hereby transferred and assigned to the Committee, each such lien to be superior and paramount to any homestead or other exemption provided by law. This lien shall be superior to all other liens and charges against the Lot, except only for property tax liens, and all sums unpaid on any mortgage securing sums borrowed for the purchase or improvement of the Lot in questions, provided such Mortgage was recorded before the delinquent Assessment was due. The Committee shall have the power to subordinate the Assessment lien to any other lien. Such power shall be entirely discretionary with the Committee and such subordination must be signed by a member of the Committee.

To evidence the Assessment the Committee may prepare a written notice of Assessment lien setting forth the amount of the unpaid indebtedness, the name of the Owner of the Lot covered by such lien and a description of the Lot. Such notice shall be signed by one of the members of the Committee and shall be recorded with the clerk of Travis County. Such lien for payment of Assessments shall attach with the priority set forth above from the date that such payment becomes delinquent and may be enforced by the foreclosure of the defaulting Owner's Lot by the Committee in like manner as a mortgage on real property, or the Committee may institute suit against the Owner personally obligated to pay the Assessment for monetary damages and/or for foreclosure of the lien judicially.

In any foreclosure proceeding, whether judicial or nonjudicial, the Owner shall be required to pay the costs, expenses, and reasonable attorney's fees incurred. The Committee shall have the power to bid on the property at foreclosure or other legal sale and to acquire, hold, lease, mortgage, convey or otherwise deal with the same. Upon the written request of any Mortgagee holding a prior lien on any Lot, the Committee shall report to the Mortgagee the Assessments remaining unpaid for longer than 30 days after the same are due. The lien shall not be affected by the sale or transfer of any Lot, except that in the event of foreclosure of any Mortgage, the lien for any Assessments that were due and payable before the foreclosure sale will be extinguished, and past due Assessments shall be paid out of the proceeds of such foreclosure sale only to the extent that funds are available after the satisfaction of the first lien Mortgage. This will not, however, relieve any subsequent Lot Owner from paying Assessments becoming due and payable after the foreclosure sale.

3.31 Subordination of the lien to mortgages. The contractual lien securing monies owed to the Committee shall be subordinate to the lien of any first lien purchase-money mortgage, interim construction mortgage or home improvement mortgage voluntarily granted or created by the Owner of his Lot and recorded with the Clerk of Travis County prior to the due date of the amount(s) owed to the Committee. Sale or transfer of any Lot pursuant to a

REAL PROPERTY RECORDS
TRAVIS COUNTY, TEXAS

foreclosure or a deed in lieu of foreclosure shall not affect the contractual lien as to the amounts secured thereby which became due and payable prior to the recording of the mortgage being foreclosed; provided, however, that the sale or transfer of any Lot pursuant to a foreclosure pursuant to a superior lien shall not extinguish the Committee's contractual lien on amounts becoming due and after such foreclosure. No such foreclosure shall relieve the Owners from liability for monies owed by the Owner to the Association.

3.32 Security policies.

a. Neither Declarant nor the Committee promises, warrants, or guaranties the safety or security of Owners, occupants, family, tenants, guests, or their agents or contractors or their personal property against the criminal actions of others. Each Owner has the responsibility to protect himself or herself and to maintain insurance to protect his or her belongings. Owners and tenants should contact an insurance agent to arrange appropriate fire and theft insurance on their personal property.

b. If security systems, security devices, access gates, or walk-through services are utilized on the Property, no representation is made by Declarant or the Committee that such systems, devices, or services will prevent injury, theft or vandalism. Neither Declarant nor the Committee promises, warrants, or guaranties that any such systems, devices, or services do in fact discourage or prevent breaches of security, intrusions, thefts, or incidents of violent crimes. Declarant and the Committee reserves the right to reduce, modify or eliminate any security system, security devices, or services (other than as statutorily required) at any time; and such action shall not be a breach of any obligation or warranty on the part of Declarant or the Committee. "Neighborhood Crime Watch" signs, if any, do not imply safety or security.

c. If controlled access gates are provided, Owners will be furnished written operating instructions; and it is the responsibility of Owners and their tenants to read them and bring any questions to the attention of the Committee. Further, it is the responsibility of Owners and their tenants to promptly notify the Committee in writing of any known problem, defect, malfunction or failure of controlled-access gates. If an Owner's Lot is equipped with an intrusion alarm, the Owner is responsible for all fines and other charges resulting from or attributable to the alarm, including false-alarm charges.

d. Protecting Owners, their families, occupants, guests and invitees from crime is the sole responsibility of the respective Owners, occupants, and law enforcement agencies. Owners, tenants and other occupants should call the police or 911 first if a crime occurs or is suspected.

e. Declarant and the Committee expressly disclaim any duties of security. Declarant and the Committee shall not be responsible for damage or injury resulting from improper use or malfunction of access gates.

3.33 Resale certificates. Upon payment to the Committee of a reasonable fee calculated to reimburse the Committee for the cost of providing same, and upon the written request of any Owner or any lienholder or prospective purchaser or lienholder of a Lot, the Committee shall issue a written statement setting forth the unpaid Assessments and other sums due, if any, with respect the Lot, the amount of the current Assessments, and the date the next

Assessment becomes due and payable, which shall be conclusive upon the Committee in favor of the addressee of such statement.

ARTICLE IV. MISCELLANEOUS

4.1 Duration of Declaration. This Declaration, including all of the covenants, conditions and restrictions, shall run in perpetuity unless amended or extinguished by a written instrument executed by the Owners of at least 75% of the Lots within the Property then subject to this Declaration and all of the first lien holders of such Lots.

4.2 Amendment to Declaration.

a. The consent of the Owners of Lots to which at least 75% of the votes in the Association are allocated, is required to amend this Declaration prior to January 1, 1998 and thereafter 66.67% shall be required, subject to the limitation below.

b. No Declaration amendments may be made which materially and adversely affect the interest of any Owner or Mortgagee of a Lot, such as altering, repealing and/or changing voting percentages, assessment allocations, insurance provisions, use rights, maintenance and repair obligations, or procedures for Declaration amendment or termination.

4.3 Errors and minor amendments. The Declarant shall have and reserve the right at any time ad from time to time, without the joinder or consent of the Lot Owners, to amend this Declaration by any instrument in writing duly signed, acknowledged, and filed for record for the purpose of correcting and typographical or grammatical error, ambiguity or inconsistency appearing in this Declarant and any amendments reasonably required in order to obtain financing approval. Provided, however, that any such amendment shall be consistent with and in furtherance of the general plan and scheme of the development as evidenced by this Declaration and shall not impair or affect the vested property or other rights of any Owner or his Mortgagee.

4.4 Notices. Any notice permitted or required to be given by this Declaration shall be in writing and may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered on the third day (other than a Sunday or legal holiday) after a copy of the same has been deposited in the United States mail, postage prepaid, addressed to the person at the address given by such person to the Committee for the purpose of service of the notices. Such address may be changed from time to time by notice in writing given by such person to the Committee.

4.5 Interpretation. The provisions of this Declaration shall be liberally construed to effectuate the purposes of creating a uniform plan for the development and operation of the Property. This Declaration shall be construed and governed under the laws of the State of Texas.

4.6 Special Declarant rights. Declarant reserves the following rights, notwithstanding anything in the Declaration to the contrary:

(1) the right to do what is reasonable necessary or advisable in connection with the completion of any development work on the Property;

(2) the right to maintain a sign or signs for the purpose of marketing the Lots owned by Declarant;

(3) the sole right to approve or reject any plans and specifications submitted by an Owner to the Architectural Control Committee for approval; and

(4) the right to make physical changes in the grade and drainage of the Lots to protect all of the Lots as a whole.

4.7 Assignment of Declarant rights.

a. Declarant may assign, in whole or in part, any of Declarant's rights, privileges, exemptions, and duties under this Declaration to any other person and may permit the participation, in whole or in part, by any other person in any of its privileges, exemptions, rights, and duties under this Declaration.

b. Any mortgage of the Declarant's interest in the Property shall be deemed to include Declarant's special rights in this Declaration; and any foreclosure sale pursuant to such mortgage shall automatically convey such Declarant rights.

c. A conveyance by the Declarant shall not convey Declarant rights unless expressly so provided.

4.8 Enforcement and nonwaiver. Except as otherwise expressly provided in this Declaration, any Owner, at his own expense, the Committee and/or Declarant shall have the right to enforce any or all of the provisions of the Restrictions at any time shall not constitute a waiver of the right thereafter to enforce any such provision or any other provision of the Restrictions.

4.9 Construction. The provisions of the Restrictions shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion thereof shall not affect the validity or enforceability of any other provision or portion thereof. Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular; and the masculine, feminine or neuter shall each include the masculine, feminine and neuter. All captions and titles used in this Declaration are intended solely for convenience of reference and shall not enlarge, limit or otherwise affect that which is set forth in any of the sections or articles thereof.

4.10 Consent of mortgagee. The first lienholder on the Property at the time of recordation of this Declaration consents to the creation of the Declaration, as set forth in Exhibit B.

Executed on this the 2 day of June, 1997.

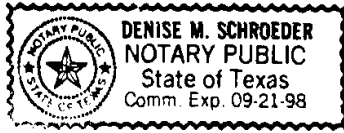
DECLARANT:
VALBURN VISTA, LTD.

Jim Meredith
BY:

STATE OF TEXAS
COUNTY OF TRAVIS

This instrument was acknowledged before me
on June 2, 1997 by Jim Meredith.

ccr's.doc



Denise M. Schroeder
Notary Public for the State of Texas
Denise M. Schroeder
Printed name of Notary

EXHIBIT A

Lots 1, 2, 3, 4, 5, 6, 7, and 8, Vista North Section Two A, a subdivision in Travis County, Texas, according to the map or plat of record in Volume 85, Page 980, Plat Records of Travis County, Texas; and as amended according to the map or plat of record in Volume 95, Page 307, Plat Records of Travis County, Texas.

REAL PROPERTY RECORDS
TRAVIS COUNTY, TEXAS

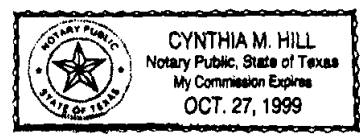
12973 0637

Executed on this the 8th day of ^{JULY}~~June~~, 1997.

William O. Milburn
WILLIAM O. MILBURN

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

I, CYNTHIA M. HILL, a Notary Public, do hereby certify that on this 8th day of JULY, 1997, personally appeared before me WILLIAM O. MILBURN, known to me to be one of the persons whose names are subscribed to the foregoing instrument, and swore and acknowledged to me that they executed the same for the purposes and in the capacity therein expressed, and that the statements contained therein are true and correct.



Cynthia M. Hill
NOTARY PUBLIC in and for
the State of T E X A S

CYNTHIA M. HILL
(stamped or printed name of notary)

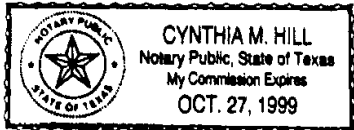
My commission expires: 10-27-99

Executed on this the 8th day of ~~June~~ ^{JULY}, 1997.


Elizabeth Milburn
ELIZABETH MILBURN

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

I, CYNTHIA M. HILL, a Notary Public, do hereby certify that on this 8th day of JULY, 1997, personally appeared before me ELIZABETH MILBURN, known to me to be one of the persons whose names are subscribed to the foregoing instrument, and swore and acknowledged to me that they executed the same for the purposes and in the capacity therein expressed, and that the statements contained therein are true and correct.



Cynthia M. Hill
NOTARY PUBLIC in and for
the State of T E X A S
CYNTHIA M. HILL
(stamped or printed name of notary)
My commission expires: 10-27-99

RETURN TO
TRAVIS TITLE CO.

REAL PROPERTY RECORDS
TRAVIS COUNTY, TEXAS

12973 0639

FILED

97 JUL 10 PM 12: 54

STATE OF TEXAS COUNTY OF TRAVIS
I hereby certify that this instrument was FILED on
the date and at the time stamped hereon by me, and
was duly RECORDED, in the Volume and Page of the
named RECORDS of Travis County, Texas, on

**DANA LAUVOIR
COUNTY CLERK
TRAVIS COUNTY, TEXAS**

JUL 10 1997



Dana Lauvoir
**COUNTY CLERK
TRAVIS COUNTY, TEXAS**

**REAL PROPERTY RECORDS
TRAVIS COUNTY, TEXAS**

12973 0640

RECEIPT#: 800078843 TRANS#: 186029 DEPT: REGULAR RECORDS \$55.00
CASHIER: KATHU FILE DATE: 7/10/97 TRANS DATE: 7/10/97
PAID BY: CHECK# 4084